

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 91-624-C - ORDER NO. 92-203✓
MARCH 23, 1992

IN RE: Frankie A. O'Cain,)	
)	
Complainant,)	
)	
vs.)	ORDER DISMISSING
)	COMPLAINT
Southern Bell Telephone &)	
Telegraph Company,)	
)	
Respondent)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the October 31, 1991 request of Frankie A. O'Cain (O'Cain) for a formal hearing concerning the manner in which Southern Bell Telephone & Telegraph Company (Southern Bell or the Company) provides service within the State of South Carolina. This Commission granted O'Cain's request for a hearing.

On March 5, 1992, at 10:30 a.m., a hearing was held at the Commission's Hearing Room, 111 Doctor's Circle, Columbia, South Carolina. The Honorable Marjorie Amos-Frazier presided. Frankie A. O'Cain represented himself. Fred A. Walters, Esquire, and Caroline Watson, Esquire, represented Southern Bell. F. David Butler, Esquire, represented the Commission Staff.

The gravamen of O'Cain's complaint is that Southern Bell carried out a large-scale replacement plan of cable and equipment after Hurricane Hugo went through South Carolina in 1989 and billed non-Hugo-related work to Hurricane Hugo accounts. O'Cain also stated that Southern Bell billed customers for work and showed the time on damage tickets as Hugo damage.

O'Cain also alleged that during the time he worked for Southern Bell, that he worked after many storms and tornadoes to replace cables which were not storm damaged, but were nonetheless charged to storm damage accounts. The new wire in those cases simply gave more modern service or more cable pairs, according to O'Cain.

Southern Bell denied the allegations of the complaint, and stated that whereas certain tickets may have accidentally been charged to Hurricane Hugo when damage that was repaired was not due to Hurricane Hugo, those tickets were in the minority, and that the Company placed emphasis in getting service back on to its customers, rather than worrying about how tickets were charged.

At the beginning of the hearing, the Commission considered the March 2, 1992 letter of Beattie B. Ashmore, Esquire, Assistant U.S. Attorney, asking that the O'Cain subpoena of Peter Shahid be quashed on the grounds that Shahid is protected by the Code of Federal Regulations from subpoenas for deposition and/or

appearance, pursuant to 28 C.F.R. Section 1622. At the beginning of the hearing, said subpoena was quashed. We reaffirm that herein.

Further, O'Cain called some 18 witnesses to the stand to present his case and presented the deposition of one witness, Cliff McElveen. Southern Bell presented the testimony of John G. Farmer, Jr., an auditor who conducted an audit of the Company's repair and replacement work subsequent to Hurricane Hugo.

The Commission believes that Frankie O'Cain is very sincere in his belief that various cable replacements and other work were improperly charged to Hurricane Hugo and other disasters and that the Company's customers were at times charged for the work. We also believe that Mr. O'Cain has expended large amounts of time and money in the furtherance of this belief. However, an examination of the evidence presented to the Commission leads this Commission to conclude that O'Cain simply has not proven his case in this proceeding by any evidentiary standard. Although O'Cain witness Mike Ferris did reveal that a particular supervisor had ordered Ferris to misrepresent the nature of work done and its location on a work ticket at one point several years ago, O'Cain was not able to elicit evidence that this was done on a routine basis after Hurricane Hugo. On the other hand, the testimony of John G. Farmer, Jr. for Southern Bell was convincing. First of all, Farmer stated that while he could not dispute that some time reports may have been charged to Hugo that were not 100% accurate,

overall he was satisfied that no intentional wrong-doing occurred, and that the Company made its greatest effort to restore telephone service to victims of Hurricane Hugo. The Commission finds Farmer's testimony to be credible.

In any event, this Commission finds that O'Cain has not proven the allegations of his complaint, and that, therefore, his Complaint must be dismissed.

The Respondent Southern Bell objects to the testimony of O'Cain witness, Randy Warren, who stated that he "spoke to two to three people with Southern Bell." Warren then attempted to state the substance of his conversations. Southern Bell argues that this is classic hearsay, in that an out of court statement is being offered to prove the truth of the matter asserted. The Commission has examined this matter and must agree with Southern Bell that the testimony offered is hearsay. The objection of Southern Bell to this portion of Warren's testimony is therefore sustained.


IT IS THEREFORE ORDERED:

1. That the Complaint of Frankie A. O'Cain is hereby dismissed.

2. That Southern Bell's objection to portions of O'Cain witness Warren's testimony being hearsay is sustained.

3. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)